

BEFORE THE

## FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

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JUN 22 1999

In re:

AMENDMENT OF SECTION 73.622 (b)  
 TABLE OF ALLOTMENTS  
 DTV BROADCAST STATIONS  
 EVANSVILLE, INDIANA

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MM Docket No.

FEDERAL COMMUNICATIONS COMMISSION  
OF THE SECRETARY

TO: Chief, Allocations Branch  
 Policy and Rules Division

**PETITION FOR RULEMAKING**

Tri-State Public Teleplex, Inc. ("Tri-State"), licensee of noncommercial educational station WNIN(TV) ("WNIN"), Channel \*9, Evansville, Indiana, by its attorneys and pursuant to the Commission's Rules, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.622(b) of its Rules to substitute DTV Channel \*12 in lieu of DTV Channel \*54 as WNIN's paired digital channel in Evansville, Indiana. This substitution of paired digital channels would serve the public interest. In addition, as the attached technical documentation demonstrates, WNIN's proposed operation on Channel \*12 will not cause impermissible interference to any other stations.

Tri-State proposes the following amendment to Section 73.622(b) of the Commission's Rules:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Evansville, Indiana	28, 45c, *54, 58, 59	*12, 28, 45c, 58, 59

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In support of this petition, Tri-State submits the following:

A. A Petition for Rulemaking is the Only Available Avenue of Relief for Tri-State

Tri-State has operated noncommercial educational station WNIN(TV) on Channel \*9 at Evansville since 1969, providing high quality educational, informational and cultural programming, including children's programming, to the mostly rural areas of Southwest Indiana, Western Kentucky and Southeast Illinois. In the *Sixth Further Notice of Proposed Rulemaking* in the Advanced Television Proceeding, FCC 96-317 (released August 14, 1996), the Commission originally proposed to allocate Channel \*57 as WNIN's paired DTV channel. Tri-State had hoped that the Commission would settle on a channel within the core spectrum, and Tri-State specifically opposed the allocation of Channel \*57.

In the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), the Commission allocated Channel \*54 for WNIN. Tri-State requested reconsideration of that aspect of the *Sixth R&O*, urging the Commission to work with it in finding an acceptable substitute channel for Channel \*54. In a supplemental filing, Tri-State's engineering consultant demonstrated that DTV Channel \*12 would work at the WNIN transmitter site, assuming a power/height combination of no more than 15kw/177m. On February 23, 1997, the Commission's *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* addressed Tri-State's petition for reconsideration by stating:

628. We have reviewed Tri-State's request. Our analysis indicates that substituting channel 12 for channel 54 as WNIN-TV's DTV allotment would impact and cause interference with other stations. Accordingly, we are denying Tri-State's petition. To the extent that Tri-State suggests specific engineering solutions, we find that such modifications are better addressed as part of a specific application rather than as a matter for reconsideration (emphasis added).

In response to the Commission's suggestion to address specific engineering solutions as part of an application, Tri-State filed an application on June 15, 1999 for a construction permit

for digital television station WNIN-DT operating on Channel \*12. Soon thereafter, however, a Commission representative informed Tri-State that the Commission was unable to consider Tri-State's application for operation on Channel \*12 until the Table of Allotments was amended via a rulemaking.

B. The Proposed Change to the Table of Allotments Will Serve the Public Interest

The proposed change to the DTV Table of Allotments will serve the public interest by enhancing WNIN's ability to provide high quality noncommercial educational programming.

The proposed substitution will allow WNIN to preserve its limited resources. By necessity, as a noncommercial educational licensee with a limited budget (\$1.7 million annually), Tri-State must be a careful steward of its resources, even while it seeks to offer the highest quality of public broadcasting service. Tri-State has looked forward to the early, innovative activation of DTV facilities. The allocation of Channel \*54 as its paired DTV channel, however, has created enormous obstacles to the achievement of its goals. Substantial hardship will be inflicted upon Tri-State if it is required to activate its DTV channel on Channel \*54. Operation of that DTV station with power levels of 1000 kw as contemplated by the Commission will result in additional electrical power costs of between \$200,000 and \$250,000 per year. This is in itself a devastating problem for this small noncommercial educational station.

Even worse, the transition procedures would require Tri-State to activate its DTV channel on Channel \*54, and then change channels after the transition period. Channel \*54 would be reclaimed by the Commission for other purposes as it is outside the core spectrum for TV operations. Thus, Tri-State would be required to activate its DTV station, only to move it to some other channel after the transition period.

C. The Proposed Change to the Table of Allotments Will Not Result in Impermissible Interference with Surrounding Stations.

Under Section § 73.622(f)(5) of the Commission Rules, an existing licensee with DTV allotment may seek a change in the station's channel if the licensee demonstrates that the change "complies with the technical criteria in §73.623(c), and thereby will not result in new interference exceeding the *de minimis* standard set forth in that section . . ." In accordance with these rules, Tri-State requests that the Commission substitute DTV Channel \*12, at a power/height combination of no more than 15kw/177m, for DTV Channel \*54. As the engineering statement accompanying this petition demonstrates, the proposed operation on WNIN-DT on Channel \*12 with ERP of 15 kw (utilizing a directional antenna) and HAAT of 175 m would in fact result in no impermissible interference to any other station.

**CONCLUSION**

For all of these reasons, Tri-State requests that the Commission institute a rulemaking proceeding to amend Section 73.622 of its Rules to substitute DTV Channel \*12 for DTV Channel \*54 as the paired channel for WNIN in Evansville, Indiana. If the Commission grants this petition and modifies the DTV Table of Allotments accordingly, Tri-State is committed to applying for and constructing its DTV station on Channel \*12.

Respectfully Submitted,

TRI-STATE PUBLIC TELEPLEX, INC.

By: Todd D. Gray  
Todd D. Gray

Attorney for Petitioner

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June 22, 1999



**ENGINEERING STATEMENT**  
**of**  
**John F.X. Browne, P.E.**  
**in support of**  
**Petition for Rule Making**  
**Non-Commercial Digital Television Allotment**  
**Evansville, IN**  
**for Petitioner**  
**Tri-State Public Teleplex, Inc.**  
**WNIN-TV**  
**Evansville, IN**

**Background**

Tri-State Public Teleplex, Inc. (TSPT) is the licensee of non-commercial WNIN-TV which serves the Evansville, IN, market on VHF Channel 9. In its Sixth Report & Order, the Commission allotted Channel 54 to Evansville to be paired with WNIN for its DTV service. For reasons explained elsewhere in the petition, TSPT requested that the Commission allot Channel 12, with limited facilities, to Evansville to be paired with WNIN-TV, Channel 9, in place of Channel 54.

In its Memorandum Opinion and Order on Reconsideration of the Sixth Report & Order, the Commission addressed the TSPT proposal but elected not to make any change in the allotment at that time, leaving open the possibility of dealing with the issue at a later time.

This engineering statement has been prepared in support of a petition to amend the DTV allotment table as set forth in Section 73.622(b) and, more specifically,

		<u>Channel No</u>	
		<u>Present</u>	<u>Proposed</u>
Indiana			
•			
•			
Evansville		28, 45 <sub>c</sub> , 46, *54, 59	*12, 28, 45 <sub>c</sub> , 46, 59
•			
•			

#### **Allotment Study**

It is proposed to change the Channel \*54 DTV channel allotment to Channel \*12 while maintaining other allotment parameters regarding location (site) and height above average terrain.

A study has been conducted using ITS / TAS and PROBE™ software to evaluate the potential interference which would be caused by operation on Channel 12 at Evansville. It was determined that three NTSC stations may receive interference as defined by the Commission. However, as the study appended hereto demonstrates, use of a directional antenna will permit a maximum ERP of 15 kW while maintaining interference within the de minimis limits set forth in section 73.623(c)(2). [It is understood that the table of separations for new DTV allotments set forth in Section 73.623(d) is not applicable as this is not a new allotment but, rather, a modification of an allotment included in the initial DTV Table of Allotments.]

In addition to meeting the interference criteria, a facility constructed at the reference coordinates would also comply with the principal city coverage requirement of Section 73.623(c)(1).

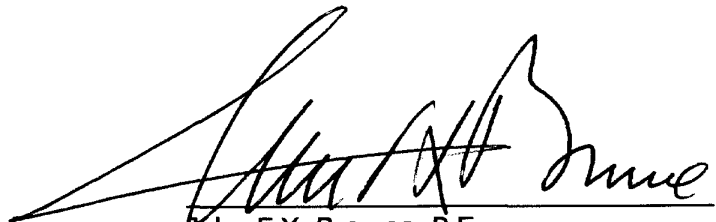
**Conclusion**

Channel 12 can be operated at Evansville, IN, for DTV service while complying with the Commission's service and interference requirements with the following parameters:

Channel	12
Reference Coordinates	38-01-27, 87-21-43
Antenna Height	177 Meters
Maximum ERP	15 kW
Directional Pattern	Per Table 2

**Certification**

This statement with associated exhibits was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are based on information from sources known to be reliable and are believed to be true.



John F.X. Browne, P.E.  
June 18, 1999

Attachment: Interference Study



**TABLE 2****CHANNEL 12, EVANSVILLE, IN  
ANTENNA AZIMUTH PATTERN TABULATION**

<u>ACTUAL BEARING</u>	<u>DIELECTRIC PATTERN AZIMUTH</u>	<u>RELATIVE FIELD</u>	<u>ERP (dBk)</u>	<u>CONTOURS (km) DTV Service</u>
N000°E (North)	0	0.903	10.87	84.80
	10	0.758	9.35	
	20	0.728	9.00	
	30	0.915	10.99	
	40	0.998	11.74	
N045°E	45	0.945	11.27	85.20
	50	0.843	10.28	
	60	0.721	8.92	
	70	0.812	9.95	
	80	0.931	11.14	
N090°E	90	0.903	10.87	85.90
	100	0.758	9.35	
	110	0.728	9.00	
	120	0.915	10.99	
	130	0.998	11.74	
N135°E	135	0.947	11.29	86.50
	140	0.847	10.32	
	150	0.724	8.96	
	160	0.812	9.95	
	170	0.931	11.14	
N180°E	180	0.927	11.10	86.90
	190	0.862	10.47	
	200	0.768	9.47	
	210	0.648	7.99	
	220	0.489	5.55	
N225°E	225	0.409	4.00	74.30
	230	0.322	1.92	
	240	0.184	-2.94	
	250	0.102	-8.07	
	260	0.025	-20.28	
N270°E	270	0.037	-16.88	39.40
	280	0.106	-7.73	
	290	0.177	-3.28	
	300	0.344	2.49	
	310	0.511	5.93	
N315°E	315	0.601	7.34	80.20
	320	0.688	8.51	
	330	0.822	10.06	
	340	0.914	10.98	
	350	0.946	11.28	

PATTERN MAXIMUM  
N038°E 11.76 dBk

PATTERN MINIMUM  
N262°E -25.32 dBk



**INTERFERENCE STUDY**  
**Use of Channel 12 at Evansville, IN**

It is proposed to use DTV Channel 12 at Evansville, IN, as follows:

Reference Coordinates	38° 01' 27" N Lat 87° 21' 43" W Lon
Height (HAAT)	177 Meters
Maximum ERP	15 kW-DA

**Channel Study**

A detailed analysis was undertaken to determine the ERP limits for a DTV facility operating on Channel 12 using PROBE™ and TAS / ITS software. The results of these studies with respect to interference, based on the use of the proposed directional antenna with a maximum ERP of 15 kW, are summarized in Table 1. Thus, the proposed facility will meet the FCC de minimis standards with respect to other DTV and NTSC stations.

**Table 1**

Station	Ch	Location	Increase	
			Persons	%
KFVS-TV	12	Cape Girardeau, MO	2,504	0.32
WILL-TV	12	Urbana, IL	6,649	0.82
WKRC-TV	12	Cincinnati, OH	7,952	0.28

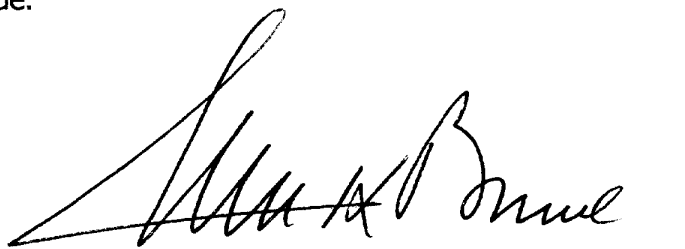
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These interference values are based on the directional antenna and ERP values listed in Table 2.

From the above, it can be seen that implementation of Channel 12 for DTV service at Evansville as proposed would comply with the Commission's interference requirements.

**Certification**

This statement with associated exhibits was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are based on information from sources known to be reliable and are believed to be true.

A handwritten signature in black ink, appearing to read 'John F.X. Browne', written over a horizontal line.

John F.X. Browne, P.E.  
June 18, 1999